

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHERMAN WALKER,

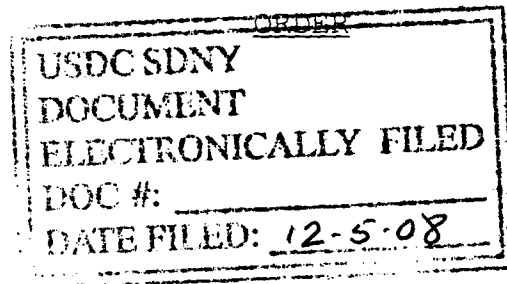
Plaintiff,

-v-

C.O.J. CABAN and LT. G. LAVERTY,

Defendants.
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08 Civ. 3025 (JSR)



JED S. RAKOFF, U.S.D.J.

On November 19, 2008, the Honorable Andrew J. Peck, United States Magistrate Judge, issued a thorough Report and Recommendation in the above-captioned matter recommending that the defendants' summary judgment motion should be granted, the plaintiff's request to amend his complaint should be denied, and that the plaintiff's § 1983 claim for use of excessive force, which was not the subject of defendants' summary judgment motion, should be allowed to go forward to trial.

Plaintiff has failed to file any objection to the Report and Recommendation, and, for that reason alone, has waived any right to further appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). Accordingly, the Court hereby adopts the Report and Recommendation, and, for the reasons therein, grants defendants' summary judgment motion, but preserves plaintiff's § 1983 claim for trial (which is firmly scheduled for December 16, 2008), and denies plaintiff's request

to amend the complaint. The Clerk of the Court is directed to close documents number 16 and 28.

SO ORDERED.

Dated: New York, New York
December 4, 2008


JED S. RAKOFF, U.S.D.J.